

SERVICE DATE - JULY 14, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 614X)

CSX TRANSPORTATION, INC.—ABANDONMENT  
EXEMPTION—IN RICHMOND COUNTY, GA

Decided: July 13, 2004

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.60 miles of railroad from Valuation Station 0+00 at milepost ANS 0.2 to Valuation Station 84+44, in Augusta, Richmond County, GA.<sup>1</sup> On July 16, 2002, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for Augusta-Richmond County, GA, to negotiate an interim trail use/rail banking agreement with CSXT, for the right-of-way involved in this proceeding.<sup>2</sup> At the request of CSXT, the negotiating period was extended several times; the latest extension expired on July 9, 2004.<sup>3</sup>

On July 12, 2004, CSXT filed a request to extend the NITU negotiating period until December 31, 2004, to allow the parties to complete negotiations.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir.

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<sup>1</sup> Notice of the exemption was served and published in the Federal Register on June 6, 2002 (67 FR 39097-98).

<sup>2</sup> By decision served July 5, 2002, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the condition that CSXT consult with Georgia Department of Natural Resources, Historic Preservation Division, to resolve outstanding historic resources concerns and retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

<sup>3</sup> The most recent extension of the negotiation period under the NITU was authorized by decision served on January 9, 2004. In that decision, the deadline for CSXT to file its notice of consummation was extended until September 9, 2004.

1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended until December 31, 2004.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request for an extension of the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended until December 31, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary